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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

| | | |
|---|---|---------------------------------------|
| In re Human Tissue Products Liability | : | (Document Electronically Filed) |
| Litigation | : | Civil Action No. 2:06-cv-135(WMJ)(MF) |
| | : | MDL No. 1763 |
| This Document Relates to: | : | |
| <i>Kennedy-McInnis v. Biomedical Tissue Services, Ltd., et al.</i> , Civil Action No. 2:06-5140 | : | |
| <i>Wilson v. Biomedical Tissue Services, Ltd., et al.</i> , Civil Action No. 2:08-5153 | : | |
| <i>Fetzer v. Biomedical Tissue Services, Ltd., et al.</i> , Civil Action No. 2:08-3786 | : | |
| <i>Michelli v. Biomedical Tissue Services, Ltd., et al.</i> , Civil Action No. 2:06-4134 | : | |

**TUTOGEN'S JOINDER IN DEFENDANT REGENERATION TECHNOLOGIES, INC.'S
MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Defendant Tutogen Medical (United States), Inc. ("Tutogen"), respectfully joins in Co-Defendant Regeneration Technologies, Inc.'s ("RTI") Memorandum of Law in Opposition to Plaintiffs' Motion for Class Certification.

Tutogen joins in and adopts the arguments set forth within Defendant RTI's Memorandum of Law in their entirety. For the reasons detailed by Defendant RTI, Plaintiffs have failed to meet the prerequisites for class certification. Plaintiffs cannot satisfy the requirements of Fed.R.Civ.P. 23 and their Motion should be denied.

Notably, Tutogen is named and/or remains an active defendant in only two (2) of the four (4) putative class actions pending in the MDL. We specifically join in the Opposition to Plaintiffs' Motion insofar as it seeks relief relative to the actions which currently name Tutogen – namely, the *Fetzer* and *Wilson* actions. As indicated by Defendant RTI in its Opposition, the *Wilson* plaintiffs failed to file a motion for class certification, despite the Court's December 1, 2009 deadline for same. Hence, there is no application pending for class certification relative to the *Wilson* plaintiffs (nor is any motion pending relative to the *Michelli* matter, which does not name Tutogen).

Nevertheless, for the reason that Plaintiffs have at various points intimated that they might seek leave to amend their pleadings to name additional class representatives (though they have failed to do so to date), Tutogen respectfully joins in the Opposition relative to those matters as well. Class certification, for the reasons set forth in RTI's Memorandum of Law, is simply inappropriate in these circumstances.

PLEASE TAKE FURTHER NOTICE that Defendant Tutogen, pursuant to L.Civ.R. 7.1(d)(2), will not be submitting a separate brief but, by joining in RTI's Opposition, will rely upon RTI's Memorandum of Law and incorporates the arguments contained therein.

Respectfully submitted,

/s Janet L. Poletto _____
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Dated: January 5, 2010

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| | : | |
| <i>Michelli v. Biomedical Tissue Services, Ltd., et al.</i> , Civil Action No. 2:06-4134 | : | |

CERTIFICATE OF SERVICE

This is to certify that I have, on this date, served upon all parties' counsel of record via the Court's electronic filing system, a copy of the following documents:

1. Joinder of Tutogen Medical (United States), Inc. ("Tutogen") in Defendant Regeneration Technologies, Inc.'s Memorandum of Law in Opposition to Plaintiffs' Motion for Class Certification; and
2. Certificate of Service.

/s Janet L. Poletto
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improperly pled as Tutogen Medical, Inc.

Dated: January 5, 2010

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January 5, 2010

Via ECF

Clerk, United States District Court
Martin Luther King Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: MDL 1763, In re: Human Tissue Products Liability Litigation
Civil Action No. 2:06-135 (WJM-MF)
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Kennedy-McInnis v. Biomedical Tissue Services, Ltd., et al., Civil Action No. 2:06-5140
Michelli v. Biomedical Tissue Services, Ltd., et al., Civil Action No. 2:06-4134

Dear Sir or Madam:

This Firm represents Defendant Tutogen Medical (United States), Inc. ("Tutogen") in the above-captioned matter.

Enclosed for electronic filing please find the following documents:

1. Joinder of Tutogen Medical (United States), Inc. ("Tutogen") in Defendant Regeneration Technologies, Inc.'s Memorandum of Law in Opposition to Plaintiffs' Motion for Class Certification; and
2. Certificate of Service.

Very truly yours,

/s Janet L. Poletto
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January 5, 2010

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Enclosures

cc:

The Honorable William J. Martini (by US Mail and ECF)

All Counsel of Record (via ECF)